



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
-----------------	-------------	----------------------	---------------------	------------------

10/593,873

09/22/2006

Tomoaki Tezuka

2006_1585A

5476

52349 7590 06/22/2009
WENDEROTH, LIND & PONACK L.L.P.
1030 15th Street, N.W.
Suite 400 East
Washington, DC 20005-1503

EXAMINER

MOSSER, KATHLEEN MICHELE

ART UNIT

PAPER NUMBER

3715

MAIL DATE

DELIVERY MODE

06/22/2009

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/593,873	Applicant(s) TEZUKA ET AL.	
	Examiner Kathleen Mosser	Art Unit 3715	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-26 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-26 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 22 September 2006 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. ____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. ____. |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>12/11/06, 10/24/07</u> . | 6) <input type="checkbox"/> Other: ____. |

Art Unit: 3715

DETAILED ACTION

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

1. Claims 14-26 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Claims 14-26 provides for the use of an individual examination execution device, but, since the claim does not set forth any steps involved in the method/process, it is unclear what method/process applicant is intending to encompass. A claim is indefinite where it merely recites a use without any active, positive steps delimiting how this use is actually practiced.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 1-7 and 14-20 are rejected under 35 U.S.C. 102(b) as being anticipated by Samph et al (US 5204813). Samph et al teaches an individual examination execution device (portable user interactive device 60) including: a question storage means in which exam questions are stored (memory card 55); a reproduction means for reproducing the exam questions stored in the question storage means (display 134 in combination with display controller 130, see col. 7: 62-68); and a sequence instruction means for instructing a reproduction sequence of the exam questions (col. 19: 31-36), as in claim 1. A sequence data holding means for holding reproduction sequence instruction data to be given to the sequence instruction means (claim 2) is shown in at least col. 17: 33-35. An individual number input means for inputting an individual number possessed by a user of the device and a sequence data generation means

Art Unit: 3715

for generating reproduction sequence instruction data to be given to the sequence instruction means, from the individual number (claim 3) is shown in at least col. 17: 14-37). A time instruction means for giving an instruction of operation to the sequence instruction means and a time data holding means for holding time data at which the time instruction means operates (claim 4) is shown in at least col. 18: 58 - col. 19: 9). An answer input means that is operable to input answers in association with reproduction of exam questions and an answer storage means in which answer data generated by the answer input means are stored (claim 5) is shown in at least col. 3: 29-32. A battery power monitoring means for monitoring the remaining power of battery that operates the individual examination execution device and progress degree storage means in which progress degree information of exam questions is stored when the remaining power of battery monitored by the battery power monitoring means becomes lower than a predetermined level (claim 6) is shown in col. 16: 47 - 55.

With respect to claim 7, Samph teaches an exam question storage means in which exam questions are stored (memory card 55); a reproduction means for reproducing the exam questions stored in the exam question storage means (col. 6: 10-14); an individual information storage means in which individual information is stored (col. 5: 60 – col. 6: 5).

With respect to claim 10, Samph et al teaches a unique number storage means in which a unique number that differs for each individual examination execution device is stored (unit ID in the PROM, col. 20: 29-31); an exam question storage means in which exam questions that are encoded according to the unique number are stored (memory card 55); a decoding means for reading the exam questions stored in the exam question storage means, and decoding the same (col. 19: 10-36); and a reproduction means for reproducing the decoded exam questions (the display in combination with the display controller). The system further includes an answer input means which is operable to input answers in association with reproduction of the exam question (the touch screen display) and an answer storage means in which the inputted answers are stored (col. 3: 29-32), as in claim 11.

With respect to claims 13-20, 23 and 24, methods of using the device of claims 1-7, 10 and 11, respectively are shown throughout the disclosure, particularly in the section "operation of the Portable User Interactive Device" starting in col. 16" 21.

Art Unit: 3715

3. Claims 12, 13, 25 and 26 are rejected under 35 U.S.C. 102(e) as being anticipated by Miller (US 2005/0095571). Miller teaches an examination execution device including: an exam question storage means in which exam questions are stored as protected information (paragraph 51); a reproduction means for reproducing the exam questions stored in the exam question storage means (client computer 26); and a mutual authentication processing means for confirming that the exam questions storage means and the reproduction means are a predetermined combination, wherein reproduction of the exam questions by the reproduction means is carried out when mutual authentication is confirmed by the mutual authentication processing means, as in claims 12 and 25 and a mutual authentication results display means for displaying the result of confirmation that the exam question storage means and the reproduction means are a predetermined combination, as in claims 13 and 26 (paragraphs 58, 61, and 68-75).

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 8, 9, 21 and 22 are rejected under 35 U.S.C. 103(a) as being unpatentable over Samph et al (US 5204813) in view of Ferris (US 5344326). Samph et al teaches all aspects of the invention as shown above but fails to teach a radio communication means for transmitting the answers stored in the answer storage means by radio (claim 8) or for successively transmitting the answers that are inputted from the answer input means (claim 9). Ferris teaches a student response system in which each participant has their own response unit. The answers entered by the participant are transmitted to a central system via a radio frequency device (col. 13: 50-63). It would have been obvious to one of ordinary skill in the art to incorporate the radio transmission device of the Ferris invention within the

Art Unit: 3715

device of Samph et al so as to allow for the instantaneous transmission of responses to the exam questions to the central testing station.

Conclusion

5. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

a. Nobles et al (US 4820167)

b. Griffin et al (US 4764120)

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Kathleen Mosser whose telephone number is (571) 272-4435. The examiner can normally be reached on M-F 8:00-4:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Xuan Thai can be reached on (571) 272-7147. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Kathleen Mosser/
Primary Examiner, Art Unit 3715

June 19, 2009